Oregon CZARA – Aerial Application of Herbicides on Type N streams in forests
Notes from Subgroup Mtg, 8/28/14

1) Does Oregon's Forest Practices Act have adequate buffers for aerial application of herbicides on Type N streams on forestland?
    a. Current state regs
    b. Other states

We talked about the state not having any explicit buffers for Type N streams for aerial application of herbicides in their FPA. WA and Idaho staff stated they have explicit buffers for aerial application of pesticides to generally protect all streams. There may be some general language in Oregon FPA that prohibits direct application of pesticides to water. We also concluded that we would focus on whether Oregon had <u>any</u> buffers for aerial application of herbicides on Type N streams for forests and not focus on <u>adequacy</u>.
***Update from 9/11/14 meeting**: Jenny reported out that ODF may have 10' vegetative (and spray?) buffers on a small group of Type N streams in the South Coast (may comprise 1-5% of Type N streams). Alan subsequently confirmed this. All other Type N streams in Oregon do not have vegetative or spray buffers for aerial application of herbicides. Erik has found out that California has vegetative buffers but is looking at spray buffers. Idaho has 100' spray buffers for pesticides on Type N streams. Gabriela requested that we get in writing that Idaho's Class II waters cover non-fish bearing streams. Jenny said she (and Leigh) had talked with ID Department of Lands (IDL) to confirm this, but could get this in writing. Washington has 50' spray buffers for Type N streams and vegetative buffers. Linda said that Mike Odenthal at ODA had indicated that Oregon's FPA is more protective of streams than WA's. Linda sent an email to Mike requesting this information for Jenny.*

2) What's the process for determining practices or buffers when herbicides are aerially sprayed on Type N streams on forestland?
    a. Roles of ODF and ODA
    b. Notification and enforcement
    c. Policies

We discussed how the State's program functioned for the aerial application of herbicides for Type N streams on forestland. Under FPA, applicators or the landowner submit notification to ODF prior to application indicating where, what, and how a pesticide will be applied. The applicator includes a plan for how they will protect streams. After a 15-day waiting period, they can apply their pesticides. If pesticides are applied before 15 days or is misapplied, ODF can fine the applicator under FPA. If there is a suspected FIFRA violation or a "major" application (undefined), ODF contacts ODA for inspection/enforcement. Thus far, in notifications to ODF, there are no explicit buffers for Type N streams presumably since there are no buffers under FPA. There is blanket language that all measures under FPA (includes following FIFRA labels) must be addressed.

We talked about the State being able to meet this condition through buffers or <u>practices</u>, such as better education, outreach and a box to check off on the notification that the applicator considers all streams including Type N streams when adhering to the label.

We also talked about different ways to close the gap between ODF and ODA re: policies on implementing their pesticides program. ODF has a strategy developed in 2013 that lays out several good ideas (see attachment in email.) PARC is a venue where the agencies can coordinate further.

***Update from 9/11/14**: We will include the checkbox that Dirk and Alan developed for the FPA notification letter. Re: education and outreach, Jenny talked with Marganne Allen at ODF and found out that while ODF participates in annual training for applicators for forestry, they have postponed the education and outreach strategy posted on their website in 2013.*

3) Why does Oregon need to go above and beyond FIFRA to address buffers for aerial application of herbicides on Type N streams on forestlands?
    a. **Ex. 5 - Deliberative**
    b. Condition specific to forest practices and buffers

Ex. 5 - Deliberative

***Update from 9/11/14**: Gabriela and Linda provided information on herbicides with court-ordered buffers in place and gave a history of the pesticide litigation. In short, there are 3 herbicides that currently have court-ordered buffers.*

4) What actions should Oregon take to have an approvable or improved program re: buffers for aerial application of herbicides on Type N streams on forestlands?
    a. Type N protections under FPA, education, outreach, coordination between ODA and ODF, other items listed in issues paper

Already discussed and additional ideas noted

5) *Why is protection of Type N streams important in the aerial application of herbicides on forestlands? What was the basis of this condition in 1998?*

We talked about the importance of answering the above question to support the rationale. Thus far, support is that it was included in 1998 in the Salmon Coastal Restoration Initiative (SCRI), Type N streams comprise 60-70% of stream length, and there are listed coho and other salmonids in downstream fishing areas. Also, all neighboring states have specific buffers that restrict aerial application over Type N streams – can provide citations on these. We talked about there not being scientific studies showing impairment of Type N streams and also talked about the question of how much information we need to show why this condition was placed on the State. We also talked about the question of whether we had enough support to approve the program given what we've found out. (Note: Though we didn't discuss today, we've looked at all the studies cited by the State and other commenters, of which none focus on Type N streams. Note that the paired watershed study cited by the State is not peer-reviewed, and EPA OWW has had major concerns with conclusions drawn from the State on these studies.)

***Update from 9/11/14:** Jenny has found generic literature on the benefits of buffers from pesticide application, but has not received information yet from the library. Look at issue paper for background on Coastal Salmon Restoration Initiative (CSRI) and how ODF is who first proposes rules to add buffers to fish-bearing and non-fish bearing streams for fungicides and non-biological insecticides, going above and beyond FIFRA. It appears that EPA and NOAA expand the need for buffers to herbicides.*

Other updates from 9/11/14 –
We discussed the group's task at hand was not to evaluate whether the original condition was appropriate, but to understand how and why it came about. Given that EPA and NOAA sought to disapprove the adequacy of spray buffers for aerial application of herbicides in 1998 and has continued to do so for the last 15 years, we should consider if there is enough new information and comments to approve the program.

Ex. 5 - Deliberative

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Next Steps – *September 19, 3rd subgroup meeting. Look at revised issues paper, and group votes individually for approval or disapproval.*
Manager's meeting Sept. 22, 10AM.